

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

MICHAEL RANDOLPH,

Plaintiff(s),

vs.

TROY STEELE,

Defendant(s).

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Case No. 4:05CV02389 ERW

**MEMORANDUM AND ORDER**

This matter comes before the Court on Petitioner Michael Randolph's Request for a Certificate of Appealability and Permission to Proceed in Forma Pauperis [doc. #24].

Petitioner filed suit under 28 U.S.C. § 2254 seeking a writ of habeas corpus. The matter was referred to Magistrate Judge David D. Noce who recommended that the Court deny Petitioner's petition for relief. Petitioner timely filed objections to the Magistrate Judge's report and recommendation. On November 27, 2007, the Court entered an order adopting the Report and Recommendation of the Magistrate Judge denying Petitioner habeas relief. On that same day, the Court entered an order denying Petitioner a Certificate of Appealability.

A certificate of appealability will be issued "only if the applicant has made a substantial showing of the denial of a constitutional right" and has "indicate[d] which specific issue or issues satisfy the showing required." 28 U.S.C. § 2253(c)(2) & (3). Additionally, "the petitioner 'must demonstrate that the issues are debatable among jurists of reason; that a court could resolve the issues [in a different manner]; or that the questions are adequate to deserve encouragement to proceed further.'" *Randolf v. Kemna*, 276 F.3d 401, 403 n.1 (8th Cir. 2002) (internal citations

omitted). As the Court concluded in its November 27, 2007 order, Petitioner has not met this standard. Therefore, Petitioner's request for a certificate of appealability is denied.


Petitioner has also sought leave to proceed in forma pauperis on appeal. Upon review of the record in this matter, this Court had previously found the applicant financially unable to pay any portion of the required filing fee in this Court and shall therefore grant Plaintiff's request on Appeal.

Accordingly,

**IT IS HEREBY ORDERED** that Petitioner's Request for Certificate of Appealability [doc. #24] is **DENIED**.

**IT IS FURTHER ORDERED** that Petitioner's Request for Leave to Proceed In Forma Pauperis on Appeal [doc. #24] is **GRANTED**.

Dated this 26th Day of February, 2008.



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E. RICHARD WEBBER  
UNITED STATES DISTRICT JUDGE